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4 DORCAS WHEELER, IN PRO PER

7 UNITED STATES BANKRUPTCY COURT  
8 NORTHERN DISTRICT OF CALIFORNIA

9 PG&E Corporation

10 -and-

11 Pacific Gas and Electric Company,

12 Debtors

) Bankruptcy Case No.: 19-30088 (DM)  
) Chapter 11  
) (Lead Case) (Jointly Administered)  
)  
) POINTS AND AUTHORITIES IN SUPPORT  
) OF CREDITOR'S  
) RESPONSE  
) TO THE NOTICE OF THE REORGANIZED  
) DEBTORS' FORTY-THIRD OMNIBUS  
) OBJECTION TO CLAIMS  
) (NO LIABILITY/PASSTHROUGH CLAIMS)  
)  
) **DATE: December 15, 2020**  
) **TIME: 10:00 a.m. (Pacific Time)**  
)  
) **PLACE: (Telephonic Appearances Only)**  
) **United States Bankruptcy Court**  
) **Courtroom: 17, 16th Floor**  
) **San Francisco, CA 94102**

19 **POINTS AND AUTHORITIES IN SUPPORT OF RESPONSE OF CREDITOR DORCAS**  
20 **WHEELER TO THE NOTICE OF THE REORGANIZED DEBTORS' FORTY-THIRD OMNIBUS**  
21 **OBJECTION TO CLAIMS (NO LIABILITY/PASSTHROUGH CLAIMS)**

22 **THE COURT SHOULD NOT SUSTAIN THE DEBTOR'S BLANKET ASSERTION OF**  
23 **"NO LIABILITY" AS TO CREDITOR'S CLAIM**

24 **THE CLAIM**

25 This claim arises out of Debtor's unauthorized, improper, and negligent pruning of  
26 trees belonging to creditor on her residential property located at 1721 N. Recreation,  
27 Fresno, CA, on April 28, 2017.  
28



1 **PRIMA FACIE VALIDITY OF PROOFS OF CLAIM**

2 "The filing of a proof of claim constitutes *prima facie* evidence of its amount and  
3 validity. Fed. R. Bankr. P. 3001(f); *In re Planet Hollywood International*, 274 B.R. 391, 394  
4 (D. Del. 2001); citing *In re Allegheny Intern Inc.*, 954 F.2d 167, 173 (3d Cir. 1992). Thus,  
5 pursuant to Rule 3001(f), an objecting debtor has the burden of producing evidence  
6 rebutting the *prima facie* validity of such a claim. Stated otherwise, "[a] party objecting to a  
7 claim has the initial burden of presenting a substantial factual basis to overcome the *prima*  
8 *facie* validity of a proof of claim [and] [t]his evidence must be of a probative force equal to  
9 that of the creditor's proof of claim." *In re Hinkley*, 58 B.R. 339, 348 (Bankr. S.D. Tex.  
10 1986); aff'd., 89 B.R. 608; aff'd., 879 F.2d 859; see, also, *In re Lewis*, 80 B.R. 39, 40 (E.D.  
11 Pa. 1987); citing 3 *Collier on Bankruptcy* ¶502.02 at 502-22."

12 Once a debtor has fulfilled this burden of production, the burden then shifts to the  
13 creditor. See *Smith v. Sprayberry Square Holdings Inc. (In re Smith)*, 249 B.R. 382, 332-33  
14 (Bankr. S.D. Ga. 2000). In fact, it is the creditor that has the ultimate burden of  
15 persuasion. *In re Reilly*, 245 B.R. 768, 773 (2d Cir. B.A.P. 2000); see, also, *In re Circle J*  
16 *Dairy*, 92 B.R. 832, 833 (Bankr. W.D. Ark. 1988). However, the burden reverts back to the  
17 creditor upon the debtor's meeting its burden to produce evidence that rebuts the initial  
18 presumption. *Id.* at 773-74; see, also, *In re Brown*, 221 B.R. 46, 47-8 (Bankr. S.D. Ga.  
19 1998)." American Bankruptcy Institute

20 **THE NECESSARY EVIDENTIARY PROOF TO REBUT A TIMELY FILED**  
21 **PROOF OF CLAIM**

22 "Based on Rule 3001(f)'s express language, more than conclusory statements  
23 denying liability are necessary to rebut the presumption raised by the timely filing of a proof  
24 of claim. See *In re Brown*, 221 B.R. 46, 48 (Bankr. S.D. Ga. 1998). Indeed, "[t]o overcome  
25 this *prima facie* evidence, the objecting party must come forth with evidence which, if  
26 believed, would refute at least one of the allegations essential to the claim." *In re*  
27 *Reilly*, 245 B.R. 768, 773 (B.A.P. 2d Cir. 2000)." American Bankruptcy Institute.



1 Debtors have provided not one scintilla of evidence that Creditor's claim is not valid  
2 other than the naked assertion that there is "no liability" based on "Rule 16"

3 "No liability" is not a factual basis with which to overcome the Prima Facie validity of  
4 Creditor's claim.


5 Rule 16, assuming arguendo that this is the Rule 16 that is the basis of Debtor's  
6 "Objection to Claim" is attached herein as Exhibit #4 and is specific to Applicants for New  
7 Service. Creditor's property and service with PG&E has been in existence for decades.

8 "No liability" is a self-serving conclusion that is not sufficient to shift the burden back  
9 to Creditor.

10 Further, in the "Rejection of Claim" email from Kristen Jensen on May 12, 2017  
11 (Exhibit 3 to Creditor's Response-see for reference), Kristen admits that "the rear of your  
12 property is traversed by one or more high voltage electric transmission lines" and that  
13 under "Rule 35 of General Order 95 (Rules for Overhead Electric Line Construction  
14 prescribed by the California Public Utilities Commission), states that the utility is not  
15 required to trim trees on a regular basis around conductors of 750 volts or less".  
16 Apparently, Debtor's have a higher responsibility for maintaining their high voltage lines  
17 than it does for lower voltage lines of 750 volts or less. Interesting, but not the point.  
18 Creditor's claim is based on unauthorized, improper, and negligent pruning of trees  
19 belonging to creditor on her residential property located at 1721 N. Recreation, Fresno,  
20 CA, on April 28, 2017 regardless of the voltage of the lines impacted.

21 Since Debtor's have not provided **any facts** rebutting this claim (of "improper  
22 pruning"), Creditor asks the Court to **DENY THE OBJECTION TO CLAIM.**

23 DATED: November 30, 2020

24   
25 Dorcas Wheeler  
26 In Pro Per  
27  
28





**ELECTRIC RULE NO. 16**  
**SERVICE EXTENSIONS**

Sheet 13

**D. RESPONSIBILITIES FOR NEW SERVICE EXTENSIONS (Cont'd.)** (T)

**1. APPLICANT RESPONSIBILITY (Cont'd.)**

- i. **REASONABLE CARE.** Applicant shall exercise reasonable care to prevent PG&E's Service Extensions, other PG&E facilities, and meters owned by PG&E or others, on the Applicant's Premises from being damaged or destroyed, and shall refrain from interfering with PG&E's operation of the facilities and shall notify PG&E of any obvious defect. Applicant may be required to provide and install suitable mechanical protection (barrier posts, etc.) as required by PG&E. (T)

**2. PG&E RESPONSIBILITY**

- a. **SERVICE, METER, AND TRANSFORMER.** PG&E will furnish, install, own, and maintain the following Service Facilities as applicable after Applicant meets all requirements to receive service:
- 1) **UNDERGROUND SERVICE.** A set of service conductors to supply permanent service from the Distribution Line source to the Service Delivery Point approved by PG&E. (T)
  - 2) **RISER MATERIALS.** Any necessary pole riser material for connecting underground services to an overhead Distribution Line.
  - 3) **OVERHEAD SERVICE.** A set of overhead service conductors and support poles to supply permanent service from a Distribution Line source to a suitable support at the Service Delivery Point approved by PG&E. Such support shall be of a type and located such that service wires may be installed in accordance with good engineering practice and in compliance with all applicable laws, ordinances, rules, and regulations including those governing clearances and points of attachment. (T)

*Exhibit # 4*

(Continued)

Advice Letter No: 1765-E  
Decision No. 97-12-098

Issued by  
**Thomas E. Bottorff**  
Vice President  
Rates Account Services

Date Filed	May 11, 1998
Effective	July 1, 1998
Resolution No.	

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